

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17717 of 2025

Applicant :- Santosh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Surendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Surendra Singh, the learned counsel for applicant, the learned A.G.A. for State-opposite party-1 and Mr. Agni Pal Singh, Advocate, who has put in appearance on behalf of first informant by filing his vakalatnama today in Court, which is taken on record.

2. Perused the record.

3. This third application for bail has been filed by applicant-Santosh Singh seeking his enlargement on bail in Case Crime No.152 of 2023 under Sections 498A, 304B I.P.C. and Sections 3/4 D. P. Act. Police Station-Sachedi, District-Kanpur Nagar during the pendency of trial i.e. Sessions Trial No.1158 of 2023 (State Vs. Santosh Kumar and others) under Sections 498A, 304B I.P.C. and Sections 3/4 D. P. Act. Police Station-Sachedi, District-Kanpur Nagar now pending in the Court of Additional District and Sessions Judge, Court No.9, Kanpur Nagar.

4. The first bail application of applicant was rejected by this Court by a detailed order dated 07.05.2024 passed in Criminal Misc. Bail Application No. 9876 of 2024 (Santosh Singh Vs. State of U.P.).

5. Thereafter applicant filed his repeat application for bail which was also rejected by this Court vide order dated 07.11.2024 passed in Criminal Misc. Bail Application No. 40801 of 2024 (Santosh Singh Vs. State of U.P.). For ready reference, the same is reproduced herein below:

1. Heard Mr. Utkarsh Pandey, the learned counsel for applicant, the learned A.G.A. for Stat-opposite party-1 and Mr. Agni Pal Singh, the learned counsel representing first informant.

2. Perused the record.

3. This repeat application for bail has been filed by applicant-Santosh Singh seeking his enlargement on bail in Case Crime No.152 of 2023 under Sections 498A, 304B I.P.C. and Sections 3/4 D. P. Act. Police Station-Sachedi, District-Kanpur Nagar during the pendency of trial i.e. Sessions Trial No.1158 of 2023 (State Vs. Santosh Kumar and others) under Sections 498A, 304B I.P.C. and Sections 3/4 D. P. Act. Police Station-Sachedi, District-Kanpur Nagar now pending in the Court of Additional District and Sessions Judge, Court No.9, Kanpur Nagar.

4. The first bail application of applicant was rejected by this Court by a detailed order dated 07.05.2024 passed in Criminal Misc. Bail Application No. 9876 of 2024 (Santosh Singh Vs. State of U.P.). For ready reference, the order dated 07.05.2024 is reproduced herein-under:

"Heard Mr. Jagmohan Singh, the learned counsel for applicant, the learned A.G.A. for State and Mr. Agni Pal Singh, the learned counsel representing first informant.

This application for bail has been filed by applicant Santosh Singh seeking his enlargement on bail in Case Crime No.152 of 2023, under Sections 498-A, 304-B IPC and Section 3/4 Dowry Prohibition Act, police station Sachendi, district Kanpur Nagar, during the pendency of trial i.e. Sessions Trial No.1158 of 2023 (State Vs. Santosh Singh and others), under Sections 498-A, 304-B IPC and Section 3/4 Dowry Prohibition Act, police station Sachendi, district Kanpur Nagar, now pending in the Court of Additional District & Sessions Judge, Court No.9, Kanpur Nagar.

Perused the record.

At the very outset, the learned counsel for applicant contends that co-accused Kajol @ Komal and Dashrath Singh have already been granted bail by this Court vide order dated 02.12.2023 passed in Criminal Misc. Bail Application No.43850 of 2023 (Kajol @ Komal Vs. State of U.P.) decided along with connected Criminal Misc. Bail Application No.42248 of 2023 (Dashrath Singh Vs. State of U.P.). For ready reference, the order dated 02.12.2023 is reproduced herein-below :

"Heard Mr. Jagmohan Singh, the learned counsel for applicants, the learned A.G.A. for State and Mr. Sanjay Kumar Nigam, the learned counsel representing first informant.

These applications for bail have been filed by applicant Kajol @ Komal and Dashrath Singh seeking their enlargement on bail in Case Crime No. 152 of 2023, under Sections 498A/304B IPC and Sections 3/4 Dowry Prohibition Act, P.S. Sachedi, District Kanpur Nagar, during the pendency of trial.

Perused the record.

Record shows that marriage of Laxmi Devi was solemnized with Santosh Kumar, yougner brother of applicant Dashrath Singh on 18.4.2022. However, just after expiry of a period of 1 year and 12 days from the date of marriage of the younger brother of applicant Dashrath Singh, an

unfortunate incident occurred on 29/30.4.2023 in which Laxmi Devi, the wife of younger brother of Dashrath Singh died. It is the case of applicant that information regarding aforesaid suicidal death of deceased was given by the uncle of applicant to the father of the deceased. However, no information as required under Section 174 Cr. P. C. was given at the concerned police station by the applicant or by any of his family members. Subsequently, Lala, the father of the deceased lodged an F.I.R. dated 30.4.2023, which was registered as Case Crime No. 152 of 2023, under Sections 498A/304B IPC and Sections 3/4 Dowry Prohibition Act, P.S. Sachedi, District Kanpur Nagar.. In the aforesaid F.I.R., eight persons namely Santosh Singh (husband), Champa Devi (mother-in-law), Dashrath Singh (Jeth), Jethani, Lal Singh (cousin father-in-law) (chachiya sasur), Rachana Devi (Nand), Sri Kishan (Nandoi) and Pappu (maternal father-in-law) (mamiya sasur) of the deceased have been nominated as named accused.

The gravamen of the allegations made in the F.I.R. is to the effect that at the time of marriage sufficient amount of goods and jewellery was given. However, in-laws of the daughter of the first informant were dissatisfied with the same. Subsequently, an additional demand of car was made by the in-laws of the daughter of first informant. As additional demand of dowry was not fulfilled, cruelty was committed to bring additional demand of dowry from her home. However, the F.I.R. specifies that the cruelty was committed upon the daughter of first informant only by the husband of the deceased. Ultimately, the named accused caused the death of the deceased i.e. daughter of first informant and hanged her body from a tree.

After above mentioned F.I.R. was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter XII Cr. P. C. Thereafter, inquest (Panchayatnama) of the body of the deceased was conducted on 30.4.2023. In the opinion of witnesses of inquest (Panch witnesses), the nature of death of deceased was categorized as suicidal and the cause of death of accused was specified as hanging. Thereafter, the post mortem of the body of deceased was conducted. In the opinion of Autopsy Surgeon, who conducted autopsy of the body of deceased, cause of the death was opined as asphyxia as a result of ante mortem hanging. The Autopsy Surgeon found following ante mortem injuries on the body of deceased:-

Ligature mark around neck 33 cm x 2 cm gap if around 6 cm R side back of neck.

During course of investigation, Investigating Officer recorded the statements of first informant and other witnesses under Section 161 Cr. P. C. Witnesses so examined have substantially supported the F.I.R. On the basis of above and other material collected by the Investigating Officer, he came to the conclusion that complicity of four of the named accused namely Santosh Singh (husband), Champa Devi (mother-in-law), Dashrath Singh (jeth) and Smt. Kajal @ Komal (jethani) of the deceased is established in the commission of crime in question. He, accordingly, submitted the charge sheet dated 19.7.2022, whereby aforementioned named accused have been charge sheeted under Sections 498A, 304B and Sections 3/4 D.P. Act, whereas investigation against other named accused is

said to be pending.

Learned counsel for applicants contends that applicants are innocent. Applicants are the jeth and jethani of the deceased. Irrespective of the fact that applicants are charge sheeted accused, yet they are liable to be enlarged on bail.

According to the learned counsel for applicants, the deceased was a short tempered lady and she has taken the extreme step of committing suicide by hanging herself. The bona fide of the applicants is explicit from the fact that no other external ante mortem injury was found on the body of deceased except the ligature mark. Prima facie, the death of deceased is a suicidal death. As per the document occurring at page 48 of the paper book, it is established that applicants were living separately from the family of deceased. Moreover, applicants cannot be said to be beneficiary of the alleged demand of additional dowry. The husband of the deceased i.e. brother of the applicant Dashrath Singh is already in jail. Moreover, the applicant Kajol @ Komal is a lady and therefore, entitled to the benefit of the provisions contained in proviso to Section 437 Cr. P. C.

Attention of the Court was then invited to the F.I.R., and on basis thereof, he submits that allegation regarding commission of cruelty upon deceased on account of non fulfillment of additional demand of dowry has been specifically made against the husband of the deceased and not other named accused. As such, it is admitted case of the prosecution that though demand of dowry was made by all the named accused, but cruelty was committed upon deceased by her husband alone.

Even otherwise, applicants are of clean antecedents having no criminal history to their credit except the present one. Applicants are in jail since 05.06.2023. As such, they have undergone more than 5 and a half months of incarceration. The police report in terms of Section 173 (2) Cr. P. C. has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against the applicants stands crystallized. However, upto this stage, no such circumstance has emerged on record necessitating the custodial arrest of applicants during the pendency of trial. It is thus urged that applicants are liable to be enlarged on bail. In case, the applicants are enlarged on bail, they shall not misuse the liberty of bail and shall co-operate with the trial.

Per contra, the learned A.G.A. and the learned counsel representing first informant have opposed the prayer for bail. They submit that since applicants are the jeth and jethani of the deceased named and charge sheeted accused, therefore, they do not deserve any indulgence by this Court. The death of the deceased has occurred within seven years of her marriage and at her marital home. As such, the death of the deceased is a dowry death. Applicants are Jeth and Jethani of the deceased. Therefore, burden is upon the applicant to not only explain the manner of occurrence but also his innocence in terms of Sections 106 and 113 of the Evidence Act. However, applicants have failed to discharge the said burden. Upon this stage simply on the basis of the certification issued by the Gram Pradhan which is not a private document, it cannot be said that applicants are living separately. The deceased was a young lady aged about 21 years,

who has died in unnatural circumstance. As such, no sympathy be shown by this Court in favour of applicants, However, they could not dislodge the factual/legal submissions urged by the learned counsel for applicants with reference to the record at this stage.

Having heard the learned counsel for applicants, the learned A.G.A. for state, the learned counsel representing first informant upon perusal of material brought on record, nature and gravity of offence, evidence, complicity of the accused, accusation made and coupled with the fact that prima facie the death of the deceased a suicidal death, the bona fide of the applicant is explicit from the fact that no external or internal ante mortem injury was found on the body of deceased except the ligature mark, in view of above, the applicants are not liable to be awarded the maximum sentence for the offence under Section 304 B IPC, if convicted, it is the admitted case of the prosecutrix as per the prosecution story unfolded in the F.I.R. that though demand of additional dowry (car) was made by all the accused, but on account of non fulfillment of of the said demand of dowry cruelty was committed upon deceased only by her husband, applicants cannot be said to be beneficiary of the alleged demand of dowry, the police report in terms of Section 173 (2) Cr. P. C. has already been submitted, as such, the entire evidence sought to be relied upon by the prosecution against the applicants stands crystallized, however, upto this stage, no such circumstance has emerged necessitating the custodial arrest of applicants during the pendency of trial, the judgement of the Supreme Court in Sumit Subhashchandra Gangwal Vs. State of Maharashtra, 2023 LiveLaw (SC) 373 (para5) the clean antecedents of applicants, the period of incarceration undergone by applicants, therefore, irrespective of the objections raised by the learned A.G.A. and the learned counsel for first informant in opposition to this application for bail, but without making any comments on the merits of the case, the applicants have made out a case for bail. Accordingly, bail applications are allowed.

Let the applicants Kajol @ Komal and Dashrath Singh involved in aforesaid case crime number, be released on bail on their furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice :-

i) The applicants shall file an undertaking to the effect that they will not tamper with the evidence and will not pressurize/intimidate the prosecution witnesses and will cooperate with the trial. The applicants shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is

issued and the applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicants is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

(v) The trial court may make all possible efforts/endeavour and try to conclude the trial within a period of one year after the release of the applicants.

However, it is made clear that any wilful violation of above conditions by the applicants, shall have serious repercussion on their bail so granted by this court and the trial court is at liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above."

On the above premise, the learned counsel for applicant contents that aforementioned co-accused are the father-in-law and mother-in-law of the deceased, respectively, who have already been enlarged on bail. Similarly, another co-accused, namely, Smt. Champa Devi has also been enlarged on bail by this Court vide order dated 21.12.2023 passed in Criminal Misc. Bail Application No.54877 of 2023 (Smt. Champa Devi Vs. State of U.P.). For ready reference, the order dated 21.12.2023 is reproduced herein-below :

"1. List revised.

2. Heard Sri Jagmohan Singh, learned counsel for the applicant, Sri Ajay Singh, learned AGA-I for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Smt Champa Devi, seeking enlargement on bail during trial in connection with S.T. No. 1158 of 2023, arising out of Case Crime No. 152 of 2023, under Sections 498A/304B I.P.C. and 3/4 D. P. Act, registered at P.S. Sachedi, District Kanpur Nagar.

4. Learned counsel for the applicant argued that the applicant is the mother-in-law of the deceased and she has been falsely implicated in the present case. It is argued that marriage of the deceased/Smt. Laxmi Devi was solemnized with Santosh Kumar, the son of the applicant around a year back. It is argued that general and omnibus allegations have been levelled against all the accused persons including the applicant. It is argued that there is no specific allegation against the applicant in the F.I.R. and the allegation of demand dowry and torture is against the husband of the deceased. It is argued that the husband of the deceased has been arrested and is in jail. It is argued that the cause of death as opined by the doctor is asphyxia as a result of ante mortem hanging. It is argued that the applicant has been made accused in the present case because of she being a family member of the husband of the deceased. It is further argued that being a

lady, she is entitled to the benefit of Section 437 Cr.P.C. The applicant is having no criminal history as stated in para- 19 of the affidavit and is in jail since 01.5.2023. It is also argued that Kajol@Komal (jethani) and Dashrath Singh(jeth) of the deceased have been granted bail by a co-ordinate Bench of this Court vide order dated 02.12.2023 passed in Criminal Misc. Bail Application No. 43850 of 2023 and 42248 of 2023, copies of which have been produced before the Court, the same are taken on record.

5. Per contra, learned AGA has opposed the prayer for bail but could not dispute the arguments as raised.

6. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is mother-in-law of the deceased. The applicant is a lady and such she is entitled to the benefit of Section 437 Cr.P.C. Cause of death is asphyxia as a result of ante mortem hanging. The husband of the deceased is in jail.

7. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

8. Let the applicant- Smt Champa Devi, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure her presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against her, in accordance with law, under section 174-A I.P.C.

(V) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against her in accordance with law and the trial court may proceed against her under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

9. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

*10. The bail application is allowed." *

According to the learned counsel for applicant though applicant is husband of the deceased, a named and charge-sheeted accused yet he is liable to be enlarged on bail. The death of the deceased is a suicidal death. The bona fide of the applicant is further explicit from the fact that no external ante-mortem injury was found on the body of deceased. The deceased was a short tempered lady and she has taken the extreme step to commit suicide by hanging herself. On the above premise, he, therefore, contends that even in the case of conviction, applicant is not liable to be awarded the maximum sentence under Section 304-B IPC i.e. life imprisonment. As such, the applicant is liable to be enlarged on bail. Even otherwise, applicant is a man of clean antecedents having no criminal history to his credit except the present one. Applicant is in custody since 01.05.2023. As such, he has undergone more than one year of incarceration. The police report under Section 173 (2) CrPC has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against the applicant stands crystalized. However, up to this stage, no such circumstance has emerged necessitating the custodial arrest of applicant. He, therefore, contends that applicant is liable to be enlarged on bail. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

Per contra, the learned A.G.A. and the learned counsel representing first informant have opposed the prayer for bail. Learned A.G.A. submits that though no external ante-mortem injury was found on the body of deceased but the dead body of deceased was recovered far away from the marital home of deceased, which was found to be hanging on a mango tree. It is an adverse circumstance, which emerged against applicant, but has remained unexplained up to this stage. Admittedly, applicant is husband of the deceased and the occurrence has occurred while the deceased was residing at her marital home therefore, by reason of above the burden is upon the applicant not only to explain the manner of occurrence but also his innocence in terms of Sections 106 and 113-B of the Evidence Act. Upto this stage, there is nothing on record to show the bona fide of applicant regarding the fact as to when the deceased went missing from the house of applicant. The deceased was a young lady, who has died just after expiry of one year and twelve days from the date of her marriage. On the above conspectus, the learned A.G.A. contends that irrespective of the submissions urged by the learned counsel for applicant no good ground for release of applicant is made out. As such, the present application for bail is liable to be rejected by this Court.

When confronted with above, the learned counsel for applicant could not overcome the same.

Having heard the learned counsel for applicant, the learned A.G.A. for State, the learned counsel representing first informant and upon perusal of record, evidence, complicity of the accused, accusation made, nature and gravity of offence and coupled with the fact that the objections raised by the learned A.G.A. in opposition to the present application for bail but without making any comments on the merits of the case, this Court does not find any good ground to enlarge the applicant on bail.

As a result, the application for bail is liable to be rejected.

It is accordingly rejected.

Order Date :- 7.5.2024. "

5. Learned counsel for applicant contends that subsequent to the above order dated 07.05.2024, the trial of applicant commenced before court below. The first informant i.e. father of deceased namely Lala @ Ganesh Singh has deposed before court below as P.W.-1. His deposition as recorded before court below has been brought on record as Annexure-6 to the affidavit filed in support of this repeat application for bail. Referring to the examination-in-chief of the aforesaid witness, the learned counsel for applicant submits that aforementioned witness in his examination-in-chief has not fully supported the F.I.R. He therefore contends that once the first informant has himself has not supported the F.I.R. in his examination-in-chief then no justifiable ground exists to prolong the custodial arrest of applicant during the pendency of trial. As such, applicant is liable to be enlarged on bail.

6. Even otherwise applicant is a man of clean antecedents inasmuch he has no criminal history to his credit except the present one. Applicant is in custody since 01.05.2023. As such, he has under-gone more than one year and six months of incarceration. The police report (charge-sheet) in terms of Section 173 (2) Cr.P.C. has already been submitted, therefore, the entire evidence sought to relied upon by the prosecution against applicant stands crystallised. Upto this stage, no such incriminating circumstance has emerged on record necessitating the custodial arrest of applicant during the pendency of trial. He therefore submits that applicant is liable to be enlarged on bail. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

7. Per contra, the learned A.G.A. for State-opposite party-1 and Agni Pal Singh, the learned counsel representing first informant have vehemently opposed the prayer for bail. Learned A.G.A. contends that even though, this court is a superior court, dictates of prudence require that no such exercise of evaluating the evidence which has emerged during the pendency of trial be undertaken by this Court as any such exercise undertaken by this Court will amount to per-empting the trial and may prejudice the prosecution or the defence. Furthermore, P.W.-1 has not been declared hostile. Upto this stage, no adverse inference can be drawn against P.W.-1. On the above conspectus, the learned A.G.A. submits that no new, good or sufficient ground has emerged so as to enlarge the applicant on bail.

8. When confronted with above, the learned counsel for applicant could not

overcome the same.

9. Having heard the learned counsel for applicant, the learned A.G.A. for State, upon consideration of material on record, evidence, gravity and nature of offence, accusations made as well as complicity of applicant, coupled with the fact that objections raised by the learned A.G.A. in opposition of this repeat application for bail could not be dislodged by the learned counsel for applicant, therefore irrespective of the varied submissions urged by the learned counsel for applicant in support of present repeat application for bail but without expressing any opinion on the merits of the case, this court does not find any new, good or sufficient ground so as to enlarge the applicant on bail.

10. As a result, present repeat application for bail fails and is liable to be rejected.

11. It is accordingly rejected.

6. Learned counsel for applicant submits that though applicant is the husband of deceased, a charge sheeted accused and facing trial before Court below, however, in view of the facts as have now emerged on record, applicant is liable to be enlarged on bail.

7. In furtherance of aforesaid submission, the learned counsel for applicant submits that applicant is in jail since 1.5.2025. As such, he has undergone more than two years of incarceration. The deposition of first informant/opposite party-1 has already been recorded before Court below. On the above premise, he submits that in case applicant is enlarged on bail then in that eventuality it cannot be said that applicant shall either terrorize the witnesses or shall hamper the course of trial. He, therefore submits that no useful purpose shall now be served in prolonging the custodial arrest of applicant. Upto this stage, four prosecution witness have deposed before Court below. The police report in terms of Section 173 (2) Cr.P.C. has already been submitted against applicant. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystalized. However, upto this stage no such incriminating circumstance has emerged necessitating the custodial arrest of applicant during the pendency of trial. Referring to the material on record, learned counsel for applicant contends that prima facie the death of deceased is a suicidal death and not homicidal. The said fact is substantiated with the aid of the post mortem of the deceased, wherein the Doctor has opined that no external or internal ante-mortem injury was found on the body of the deceased.

8. It is further submitted by the learned counsel for applicant that all other charge sheeted accused have already been enlarged on

bail. On the cumulative strength of aforesaid submission, the learned counsel for applicant submits that applicant is liable to be enlarged on bail. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

9. Per contra, the learned A.G.A. for State/opposite party-1 and Mr. Agni Pal Singh, the learned counsel for first informant, have vehemently opposed the prayer for bail. They submit that since applicant is a named as well as charge sheeted accused, therefore he does not deserve any indulgence by this Court. Marriage of the applicant was solemnized with the deceased and just after expiry of a period of one year and 15 days, the deceased committed suicide. They therefore submit that the death of the deceased is a highly unnatural death. Since the applicant is husband of deceased and death of the deceased has occurred in the house of the applicant itself, burden is upon the applicant to explain the manner of occurrence and also his innocence in view of section 106 and 113 B of the Evidence Act. However, aforesaid burden has not been discharged by applicant up to this stage. As such, no indulgence be granted by this Court in favour of applicant. On the above conspectus, it is thus urged by the learned A.G.A. as well as the learned counsel representing first informant, that no new, good or sufficient ground has emerged so as to enlarge the applicant on bail. However, they could not dislodge the factual and legal submissions urged by the learned counsel for applicant.

10. Having heard the learned counsel for applicant, the learned A.G.A. for State,, the learned counsel representing first informant upon perusal of material brought on record, evidence, nature and gravity of offence as well as complicity of applicants, accusations made coupled with the fact that applicant is husband of the deceased and facing trial before Court below, however, this Court finds that applicant is in jail since 1.5.2025, as such, he has undergone more than two years of incarceration, the police report in terms of Section 173 (2) Cr.P.C. having been submitted, therefore, the entire evidence sought to be relied upon by prosecution against applicant stands crystalized, the learned A.G.A. could not point out from record any such incriminating circumstance from the record, necessitating the custodial arrest of applicant during the course of trial, the judgement of Supreme Court in **Sumit Subhaschandra Gangwal and another Vs. The State of Maharashtra and Another, 2023 Live Law (SC) 37**, charges have already been framed against applicant and other charge sheeted accused, the trial has already commenced, upto to

this stage, four prosecution witness have deposed before court below, the deposition of first informant/opposite party-1 has already been recorded before Court below, In case the applicant is enlarged on bail then in that eventuality it cannot be said that applicant shall either terrorize the witnesses or shall hamper the course of trial, as per post mortem report of the deceased, the death of the deceased is suicidal, the autopsy surgeon who conducted the autopsy of the body of deceased has clearly opined that except for ligature mark, no other external or internal ante-mortem injury was found on the body of the deceased, therefore irrespective of the objections raised by the learned A.G.A. to the present application for bail but without making any comment on the merits of the case, applicant has made out a case for bail.

11. Accordingly, the bail application is **Allowed**.

12. Let the applicant **Santosh Singh**, be released on bail in the aforesaid case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) THE APPLICANT SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE/SHE SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE FIXED FOR EVIDENCE WHEN THE WITNESSES ARE PRESENT IN COURT. IN CASE OF DEFAULT OF THIS CONDITION, IT SHALL BE OPEN FOR THE TRIAL COURT TO TREAT IT AS ABUSE OF LIBERTY OF BAIL AND PASS ORDERS IN ACCORDANCE WITH LAW.

(ii) THE APPLICANT SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS/HER COUNSEL. IN CASE OF HIS/HER ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM/HER UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HIS/HER PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF APPLICANT FAILS TO APPEAR BEFORE THE COURT ON THE DATE FIXED IN SUCH PROCLAMATION, THEN, THE TRIAL COURT SHALL INITIATE PROCEEDINGS AGAINST HIM/HER, IN ACCORDANCE WITH LAW, UNDER SECTION 174-A IPC.

(iv) THE APPLICANT SHALL REMAIN PRESENT, IN PERSON, BEFORE THE TRIAL COURT ON DATES FIXED FOR (1) OPENING OF THE CASE, (2) FRAMING OF CHARGE AND (3) RECORDING OF STATEMENT UNDER SECTION 313 CR.P.C. IF IN THE OPINION OF THE TRIAL COURT ABSENCE OF THE APPLICANT IS DELIBERATE OR WITHOUT SUFFICIENT CAUSE, THEN IT SHALL BE OPEN FOR

THE TRIAL COURT TO TREAT SUCH DEFAULT AS ABUSE OF LIBERTY OF BAIL AND PROCEED AGAINST THE HIM/HER IN ACCORDANCE WITH LAW.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT.

13. However, it is made clear that any wilful violation of above conditions by the applicant, shall have serious repercussion on his/her bail so granted by this court and the trial court is at liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above.

Order Date :- 26.5.2025

Arshad